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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

IN RE RINO INTERNATIONAL
CORPORATION DERIVATIVE LITIGATION,

This Document Relates To:

ALL ACTIONS

Lead Case No. 2:10-cv-02209-MMD-GWF
(Consolidated with 2:10-cv-02244-KJD-GWF)

NOTICE OF RELATED CASE
TRANSFERRED TO THIS COURT AND
REQUEST FOR CONSOLIDATION
PURSUANT TO CONSOLIDATION
ORDER

1 Pursuant to this Court's January 18, 2011 Order re: Stipulation re: (1) Consolidation of
 2 Related Case; (2) Acceptance of Service; (3) Appointment of Lead Counsel and Liaison Counsel;
 3 and (4) Setting a Briefing Schedule [#21] (the "Consolidation Order") and Local Rule 7-2.1,
 4 Nominal Defendant RINO International Corporation ("RINO") hereby notifies the Court that a
 5 related shareholder derivative action alleging the same or substantially the same transactions and
 6 events and involving almost identical parties as the present action has been transferred to the
 7 District of Nevada from the Central District of California. In addition, RINO requests that the
 8 Court consolidate that transferred action with this consolidated action pursuant to the
 9 Consolidation Order.

10 The related case which has been transferred to this District from the Central District of
 11 California is captioned *Morningstar v. Dejun*, Case No. CV 11-00655 DDP (VBKx), which
 12 received a new case number once it was transferred to the District of Nevada: 2:13-cv-00427-
 13 JCM-GWF (the "*Morningstar Action*"). The March 12, 2013 Order re: Transfer to District of
 14 Nevada in the *Morningstar Action* is attached hereto as Exhibit 1 ("Transfer Order"), and a letter
 15 of transmittal from the Central District of California is attached hereto as Exhibit 2. The Transfer
 16 Order explains, in relevant part:

17 This case is one of four shareholder derivative suits filed on behalf of
 18 RINO. This is the second such action filed in federal court. The first (the
 19 "Nevada Action") was filed in the District of Nevada on December 20,
 2010, approximately one month before this case was initiated.

21 . . . The parties to the Nevada Action moved for preliminary settlement
 22 approval in November 2012. The parties here appear to agree that final
 23 approval of the proposed settlement in the Nevada Action will extinguish
 24 Plaintiffs' claims in this case. . . .

25 The "first-to-file" rule "permits this court to decline jurisdiction when a
 26 complaint involving the same parties and issues has already been filed in
 another district." In such cases, this court may, in its discretion, stay,
 transfer, or dismiss the later-filed suit. The rule promotes judicial efficiency
 and reduces the risk of inconsistent decisions. Threshold factors include 1)
 the chronology of the actions, 2) the similarity of the parties, and 3) the
 similarity of the issues.

27 All three factors here weigh in favor of transfer to the District of Nevada.
 28 The chronology and similarity of issues are not in dispute.

1 Ex. 1 at 1-3 (internal citations omitted).

2 This Court's Consolidation Order, which consolidated two related shareholder derivative
3 cases into this single consolidated action in this Court, provides in relevant part:

4 The parties agree that the Court's Order shall apply to each case, arising out
5 of the same or substantially the same transactions or events as these cases,
which is subsequently filed in, removed to or transferred to this Court.

6 The parties agree that when a case which properly belongs as part of the *In*
7 *re RINO International Corporation Derivative Litigation*, Lead Case No.
8 Case No. 2:10-cv-02209-RLH-GWF, is hereafter filed in the Court or
transferred here from another court, this Court requests the assistance of
9 counsel in calling to the attention of the clerk of the Court the filing or
transfer of any case which might properly be consolidated as part of the *In*
10 *re RINO International Corporation Derivative Litigation*, Lead Case
11 No. Case No. 2:10-cv-02209-RLH-GWF, and counsel are to assist in
assuring that counsel in subsequent actions receive notice of the Court's
Order.

12 Consolidation Order, ¶¶ 18-19.

13 Therefore, pursuant to the Consolidation Order and Local Rule 7-2.1, RINO hereby
14 notifies the Court of the transfer of the *Morningstar* Action to the District of Nevada, and requests
15 that the *Morningstar* Action be consolidated as part of *In re RINO International Corporation*
16 *Derivative Litigation*, Lead Case No. 2:10-cv-02209-MMD-GWF. RINO further requests that the
17 terms and provisions of the Consolidation Order shall apply to the *Morningstar* Action as well.

18
19 Dated: March 14, 2013

/s/ Patrick G. Byrne

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Atorneys for Nominal Defendant
RINO International Corporation

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ORDER

Pursuant to this Court's January 18, 2011 Order re: Stipulation re: (1) Consolidation of Related Case; (2) Acceptance of Service; (3) Appointment of Lead Counsel and Liaison Counsel; and (4) Setting a Briefing Schedule [#21] (the "Consolidation Order"), a related case which has been transferred to this District from the Central District of California, captioned *Morningstar v. Dejun*, Case No. 2:13-cv-00427-JCM-GWF (the "Morningstar Action"), is hereby consolidated as part of *In re RINO International Corporation Derivative Litigation*, Lead Case No. 2:10-cv-02209-MMD-GWF. The terms and provisions of the Consolidation Order shall apply to the Morningstar Action as well.

IT IS SO ORDERED.

MIRANDA DU
United States District Judge

DATED: _____

EXHIBIT 1

JS - 6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

M. AILEEN MORNINGSTAR and) Case No. CV 11-00655 DDP (VBKx)
ALICE SLETTEDAHL,)
Derivatively on Behalf of)
Nominal Defendant RINO)
INTERNATIONAL CORPORATION,) **ORDER RE: TRANSFER TO DISTRICT OF**
Plaintiffs,) **NEVADA**
v.)
ZOU DEJUN, KENNETH C.)
JOHNSON, QUAN XIE, BEN WANG,)
LI YU, BRUCE RICHARDSON, YI)
LIU, ZHANG WEIGUO and RINO)
INTERNATIONAL CORPORATION,) [Dkt. No. 90]
Defendants.)

)

Presently before the court is Nominal Defendant RINO International Corporation's Motion to Stay this shareholder derivative action.

This case is one of four shareholder derivative suits filed on behalf of RINO. This is the second such action filed in federal court. The first (the "Nevada Action") was filed in the District

1 of Nevada on December 20, 2010, approximately one month before this
2 case was initiated.¹

3 Defendants Zou Dejun and Qiu Jianping recently sold two
4 California houses to help fund the settlement of a related
5 shareholder class action in this court. (Declaration of Robin
6 Winchester ¶ 36.) Plaintiffs in this case believe that the home
7 sales yielded an excess of approximately \$2.4 million. (Id. ¶ 37.)
8 Plaintiffs have sought discovery regarding these assets, and intend
9 to seek to establish a constructive trust over the \$2.4 million.
0 (Id. ¶ 49.)

11 In the meantime, the Nevada Action has proceeded, and may soon
12 settle. The parties to the Nevada Action moved for preliminary
13 settlement approval in November 2012. The parties here appear to
14 agree that final approval of the proposed settlement in the Nevada
15 Action will extinguish Plaintiffs' claims in this case.

16 The court in the Nevada Action has yet to rule on the pending
17 motion for preliminary approval. Even if the court does
18 preliminarily approve the settlement, Plaintiffs here intend to
19 object to the settlement in the Nevada Action at the final approval
20 stage.

21 The "first-to-file" rule "permits this court to decline
22 jurisdiction when a complaint involving the same parties and issues
23 has already been filed in another district." Apple Inc. v.
24 Psystar, 658 F.3d 1150, 1161 (9th Cir. 2011) (quotation and
25 citation omitted). In such cases, this court may, in its
26 discretion, stay, transfer, or dismiss the later-filed suit.

¹ The Nevada suit is In re RINO International Derivative Litigation, No. 10-cv-2209-MMD-GWF.

1 Cedars-Sinai Med. Center v. Shalala, 125 F.3d 765, 769 (9th Cir.
2 1997). The rule promotes judicial efficiency and reduces the risk
3 of inconsistent decisions. Alltrade, Inc. v. Uniweld Prods., Inc.,
4 946 F.2d 622, 625 (9th Cir. 1991); Meru Networks, Inc. v. Extricom
5 Ltd., No. C-10-2021 RMW, 2010 WL 346315 at *3 (N.D. Cal. Aug. 31,
6 2010). Threshold factors include 1) the chronology of the actions,
7 2) the similarity of the parties, and 3) the similarity of the
8 issues. Alltrade, 946 F.2d at 625.

9 All three factors here weigh in favor of transfer to the
10 District of Nevada. The chronology and similarity of issues are
11 not in dispute. Though Plaintiffs argue that there is one
12 defendant in this case who is not named in the Nevada Action, the
13 parties in the two actions need only be substantially similar for
14 the first-to-file rule to apply. Nat'l Union Fire Ins. Co. of
15 Pittsburgh v. Payless Shoesource, Inc., No. C-11-1892 EMC, 2012 WL
16 3277222 at *3 (N.D. Cal. Aug. 9, 2012).

17 Accordingly, Defendant's motion is, for all intents and
18 purposes, GRANTED. Rather than stay this case, however, the court
19 transfers this matter to the District of Nevada.²
20 IT IS SO ORDERED.

21
22 Dated: March 12, 2013

Dean D. Pregerson
DEAN D. PREGERSON
United States District Judge

27 ² Whether this case should be consolidated, the role of
28 Plaintiffs' present counsel, and whether to establish a
constructive trust over any Defendant's assets are issues best left
to the Nevada court.

EXHIBIT 2



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

312 North Spring Street, Room G-8
Los Angeles, CA 90012
Tel: (213) 894-3535

SOUTHERN DIVISION

411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4750

EASTERN DIVISION

3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

TERRY NAFISI

District Court Executive and
Clerk of Court

To: Clerk, United States District Court
District of Nevada
333 Las Vegas Boulevard South
Las Vegas, NV 89101-7065

Re: Transfer of our Civil Case No. CV11-655-DDP(VBKx)
Case Title: M. Aileen Morningstar -v- Zou Dejun

Dear Sir/Madam:

An order having been made transferring the above-numbered case to your district, we are transmitting herewith our file:

Original case file documents are enclosed in paper format.
 Electronic Documents are accessible through Pacer.
 Other: _____

Very truly yours,

Clerk, U.S. District Court

Date: March 13, 2013

By Brent Pacillas
Deputy Clerk

cc: *All counsel of record*

TO BE COMPLETED BY RECEIVING DISTRICT

Please acknowledge receipt via e-mail to appropriate address listed below and provide the case number assigned in your district:

CivilIntakecourtdocs-LA@cacd.uscourts.gov (Los Angeles Office)
 CivilIntakecourtdocs-RS@cacd.uscourts.gov (Riverside Office)
 CivilIntakecourtdocs-SA@cacd.uscourts.gov (Santa Ana Office)

Case Number: _____

Clerk, U.S. District Court

Date: _____

By _____
Deputy Clerk